

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 8038
BILL NUMBER: SB 471

DATE PREPARED: Apr 12, 2001
BILL AMENDED: Apr 12, 2001

SUBJECT: Health.

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FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill has the following provisions:

(A) This bill prohibits an owner or employee at certain health care providers from receiving money or assets as a loan or gift from an individual who receives care from the provider. The bill makes the penalty for committing the offense a Class A infraction. The bill permits an otherwise prohibited gift if it is made in writing before two disinterested witnesses. The bill also permits a prosecuting attorney to obtain reimbursement.

(B) The bill provides that a Medicaid recipient may not be restricted access to a prescription drug for mental illness.

(C) This bill also adds a psychiatrist to the Controlled Substances Advisory Committee.

(D) The bill requires the Controlled Substances Advisory Committee to review the records maintained by the central repository for controlled substances designated by the State Police Department regarding the prescribing of stimulant medications to children. It also requires the report to contain specified information and to be filed with the Legislative Council, Governor, and Medical Licensing Board by December 1, 2001.

(E) The bill requires the Office of Medicaid Policy and Planning (OMPP) to report to the Indiana Commission on Mental Health by March 1, 2003, regarding the cost effectiveness of statutes allowing Medicaid recipients unrestricted access to prescription drugs that are prescribed for mental illness.

Effective Date: (Amended) January 1, 2001 (Retroactive); Upon Passage; July 1, 2001.

Explanation of State Expenditures: (Revised) (B) *Prescription Drugs for Mental Illness Under Medicaid:* This bill provides that a Medicaid recipient may not be denied access to or restricted in the use of a

prescription drug for the treatment of a mental illness. This provision can be expected to increase pharmaceutical costs faced by managed care organizations (MCO) in the Medicaid Risk-Based Managed Care (RBMC) program due to the prohibition against the use of restrictive drug formularies or prior approval policies. These costs may eventually be passed on to the state through negotiated capitation rates paid to the MCOs. However, published research suggests that there is a significant potential for any increased pharmaceutical costs to be exceeded by reduced expenditures in other parts of the mental health system (e.g., emergency mental health services, use of community mental health centers, and partial hospitalization). The bill specifies that this provision is to expire on December 31, 2002.

OMPP is to report to the Indiana Commission on Mental Health regarding the cost effectiveness of this provision.

(D) *Controlled Substances Advisory Committee:* The Indiana State Police (ISP) should experience minimal expenditures as a result of the bill. The ISP already maintains a central repository for controlled substances. The fifteen-member Controlled Substances Advisory Committee (CSAC) would experience increased expenditures due to the creation of a sixteenth member (psychiatrist with expertise in adolescent psychology). Currently, CSAC members who are not State employees are entitled to the minimum salary per diem, reimbursement for traveling expenses, and other expenses actually incurred in connection with the member's duties. Members who are State employees are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. Depending on the distance traveled to meetings by the proposed sixteenth member, the additional expenditures for the proposed member could range from \$770 to \$1240 over six meetings. If the proposed member were a State employee, expenditures would be much lower. If the proposed member were from the Indianapolis area, expenditures, would also be significantly reduced, assuming meetings of the Board are held in the Indianapolis area.

Additionally, the CSAC would have increased expenditures for the preparation of the required report concerning the prescription of stimulant medications to children for the Legislative Council, Governor, and Medical Licensing Board. The CSAC has six scheduled meetings for CY 2001. If the Committee meets additionally, expenditures for Committee operations would increase.

Explanation of State Revenues: (Revised) **(A) *Penalty Provision:*** The bill assigns a Class A infraction if the requirements of the bill are violated concerning certain transactions between a medically treated person and a health care professional. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class A infraction is \$10,000 which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

(B) See *Explanation of State Expenditures*, above, regarding expenditures in the Medicaid program. Costs in the Medicaid program are shared between the Federal government (about 62% of costs) and the State (about 38%).

Explanation of Local Expenditures:

Explanation of Local Revenues: **(A) *Penalty Provision:*** If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may

receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Health Professions Bureau, Controlled Substances Advisory Committee, Medical Licensing Board, State Police, Legislative Council, Office of the Governor, Medical Licensing Board, Office of Medicaid Policy and Planning.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Soumerai, Stephen B., et.al., "Effects of Limiting Medicaid Drug Reimbursement Benefits on the Use of Psychotropic Agents and Acute Mental Health Services by Patients with Schizophrenia," New England Journal of Medicine, Vol. 331, No. 10, September 1994.